

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

Anthony Riley,	)	Civil Action No.: 8:10-1315-HMH-BHH
	)	
Plaintiff,	)	
	)	
vs.	)	<b><u>REPORT AND RECOMMENDATION</u></b>
	)	<b><u>OF MAGISTRATE JUDGE</u></b>
James Metts, et al.,	)	
	)	
Defendants.	)	

The Plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On October 18, 2010, the Defendant James Metts filed a Motion for Summary Judgment (Dkt. # 29.) On October 19, 2010, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), an order was mailed to the Plaintiff's last known address (Anthony Riley, 67124, Lexington County Detention Center, PF 25, P.O. Box 2019, Lexington, SC 29701) advising him of the summary dismissal procedure and the possible consequences if he failed to respond adequately. (Dkt. # 30.) On October 20, 2010, the Defendant Trinity Food Service also filed a motion to dismiss. (Dkt. # 32.)<sup>1</sup> On October 21, 2010, again pursuant to *Roseboro*, an order was mailed to the Plaintiff's last known address Lexington County Detention Center advising him of the summary dismissal procedure and the possible consequences if he failed to respond adequately. (Dkt. # 30. On November 1, 2010, the envelope containing the first *Roseboro* order was returned to the court as the Plaintiff is apparently no longer incarcerated at the Lexington County

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<sup>1</sup>The Defendant Trinity Food Service has since filed another Motion to Dismiss based on the Plaintiff's failure to prosecute. (Dkt. # 37.)

Detention Center.

The record reveals that the Plaintiff was advised by order dated May 21, 2010, of his responsibility to notify the court *in writing* if his address changed. (Dkt. # 1.)

Based on the foregoing, it appears the Plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989). Further, if the District Court adopts this report, it is recommended that the Defendant James Metts' Motion for Summary Judgment (Dkt. # 29) and the Defendant's Trinity Food Service's Motions to Dismiss (Dkt. # 32 and 37) be DENIED as moot.

s/Bruce H. Hendricks  
United States Magistrate Judge

November 9, 2010  
Greenville, South Carolina